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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,057	07/17/2006	Durand Roland	022702-152	6176
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EXAMINER				
SANDERS, KRIELLION ANTIONETTE				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
03/18/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary

Application No.

10/562,057

Applicant(s)

ROLAND ET AL.

Examiner

Kriellion A. Sanders

Art Unit

1796

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21, 24-28, 30-32 and 34-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21, 24-28, 30-32 and 34-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The use of the trademarks Tubassist Fix 102W and Irgalan Black RBLN have been noted in this application. They should be capitalized wherever they appear and be accompanied by their generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21 and 24-28 and 30-32 and 34-37 are rejected under 35 U.S.C. 103(a) as obvious over Bianchi et al., WO 02/02696, (US Patent Publication 2004/0087734 will be used as an English equivalent).

3. Bianchi et al discloses a thermoplastic polymer composition comprising a polyamide and at least one compound for modifying the hydrophilicity and/or the antistatic behaviour of the compound, characterized in that the compound is a block polymer represented by formula (I) as depicted in the patent. See paragraph [0011].

The compositions, apart from the modifier, may include other additives such as delustrants, coloured pigments, heat or light stabilizers, heat protection agents, antimicrobial

agents, antisoiling agents or the like. This list is in no way exhaustive. The compositions may, in particular, contain a delustrant consisting of titanium dioxide particles possibly coated so as to protect the polymer from degradation in contact therewith. The titanium dioxide may be used by itself or in combination with other delustrants. The proportion by weight of delustrant in the compositions may be up to a few percent. For example, it is between 0.2 and 0.5% for an effect called "semi-dull", between 0.5 and 1% for an effect called "dull" and between 1% and 2% for an effect called "fully dull". To obtain a level of mattness regarded as significant, the weight concentration is generally greater than 0.7%. Patent indicates that it is also possible to use zinc sulphide particles as a delustrant, or else a titanium dioxide/zinc sulphide mixture.

The thermoplastic polymer may be a polyamide. The polyamide of the composition may be chosen from nylon-6, nylon-6,6, nylon-4,6, nylon-6,10, nylon-11, nylon-12 and blends and copolymers based on these polymers.

The invention also relates to the yarns, fibers and filaments obtained by spinning a composition described above. These may be continuous textile yarns intended to be woven or knitted, BCF yarns used for the manufacture of carpets, flock cables intended to be cut into very short fibers for flocking, fibers used for the production of staple fiber yarns, or non-woven surfaces. See paragraphs [0041-0045].

It would have been obvious to one of ordinary skill in the art given the disclosure of Bianchi et al to utilize a delustrant comprising a titanium dioxide/zinc sulphide mixture weight concentration is generally greater than 0.7% to obtain a level of mattness regarded as significant.

4. Patentee indicates in paragraph [0041 that the weight percent of the delustrants may be up to a few percent. Patentee indicates that the percentage of delustrant has a direct effect on the dullness of the composition. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to determine the best weight percentage of delustrant to achieve the desired effect. Likewise, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to determine the best ratio of delustrants when used in combination to achieve the desired results. The various species of delustrants are equated by patentee and would be expected to possess similar properties.

Response to Arguments

5. Applicant's arguments filed 11/26/08 have been fully considered but they are not persuasive.

Applicant has not clearly shown that he has achieved an unexpected result for the invention as claimed by utilizing the delustrants of Bianchi et al in an amount ranging from 2%-4% by weight. Bianchi et al claims the delustrant in an amount of greater than 0.7% by weight. See claim 9. The working examples of Bianchi et al are not considered to limit the scope of the patented invention to include only the amount of the delustering agents used in the examples.

Applicant's comparative data at pages 19-22 of the specification is not commensurate in scope with the claims and only represents specific combinations of TiO₂/SiO₂ and ZnS/TiO₂ as delustrants and only when used in polyamide on a polyester substrate. The variety of thermoplastic substrates of claim 28 is not fairly represented by applicant's comparative examples.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 571-272-1122. The examiner can normally be reached on Monday through Thursday 8:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kriellion A. Sanders/

Primary Examiner, Art Unit 1796

Kriellion A. Sanders
Primary Examiner
Art Unit 1796

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